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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/506,537

03/07/2005

Toshio Narita

042541

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38834

7590

02/09/2007

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EXAMINER

LAVILLA, MICHAEL E

ART UNIT

PAPER NUMBER

1775

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/506,537	Applicant(s) NARITA ET AL.	
	Examiner Michael La Villa	Art Unit 1775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 January 2007 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
3. A person shall be entitled to a patent unless –
4. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. Claims 1-3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Rairden, III USPN 3,998,603 for the reasons of record in the Office Action mailed on 26 July 2006.

Response to Amendment

6. In view of applicant's amendments and arguments, the section 112, first paragraph rejection, the section 112, second paragraph rejection, and the double patenting objection of the Office Action mailed on 26 July 2006 are overcome and therefore withdrawn.

7. In view of applicant's amendments and arguments, applicant traverses the section 102 rejection over Rairden, III of the Office Action mailed on 26 July 2006. Applicant argues that the position of the alpha chromium layer of Rairden, III is not the same as applicant's. This argument is not understood. Firstly, as does applicant, Rairden, III aluminizes a Ni-Cr containing layer. See, for example, applicant's Claim 2. Secondly, the resulting article of Rairden, III can be described as having an inner chromium alpha phase and outer layer of the claimed beta and gamma prime phases for the reasons already of record. This inner and outer layer structure is claimed by applicant. Hence, it is unclear, with respect to the claimed structure, what claimed positional aspect is absent in Rairden, III. To bolster applicant's traversal arguments, applicant refers to an "explanatory drawing" in applicant's comments, but no corresponding drawing is present in the filewrapper papers. Applicant argues that the alpha chromium layer of Rairden, III is not a chromium precipitation layer as presently claimed. While applicant may be correct that the layers of Rairden, III and those exemplified in applicant's Specification have been formed under different fabrication conditions, including precipitation conditions, it is unclear why the layer in Rairden, III cannot be identified with a layer formed by precipitation. To the extent that the chromium alpha phase layer in Rairden, III is formed, it can be said to have been precipitated or indistinguishable from one that had been precipitated. Without some specification of a compositional or structural property that necessarily must be present in a precipitated layer as claimed, it is unclear

how this terminology can be said to distinguish applicant's claimed layer from the alpha chromium phase layer of Rairden, III. With respect to Claim 6, it is remarked that the NiCr layer in Rairen, III can be identified with the claimed substrate, meeting the limitation of Claim 6. Rejection is maintained.


Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael La Villa whose telephone number is (571) 272-1539. The examiner can normally be reached on Monday through Friday.
9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571) 272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1775

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael La Villa
31 January 2007


MICHAEL E. LAVILLA PH.D.
PRIMARY EXAMINER